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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,566	11/20/2003	Martin Cousineau	672-B01.US	7047

7590 09/14/2005

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EXAMINER

DUNWOODY, AARON M

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 09/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/716,566	<b>Applicant(s)</b> COUSINEAU, MARTIN	
	<b>Examiner</b> Aaron M. Dunwoody	<b>Art Unit</b> 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 8/31/2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 16-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 16-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/5/2005 has been entered.

### ***Specification***

The amendment filed 8/5/2005 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

- 1) The disc spring being made out of corrosion resistant material.
- 2) The plate for allowing insertion of the clamp around the hose passing through a gap located in between the first and second looped ends and to be positionable in a continuous relationship with the loop once the clamp is disposed around hose, thereby substantially closing off the gap between the first and second looped ends.

Applicant is required to cancel the new matter in the reply to this Office Action.

***Claim Rejections - 35 USC § 112***

Claims 1-12 and 15-24 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In regards to claim 1, the claim recites, "at least one disc spring mounted thereon and made out of corrosion resistant material"; however, the original disclosure of the instant application fails to provide support to this statement. Further, the original disclosure is silent as to the material of the disc spring.

In regards to claim 23, the claim recites, "the disc spring is made out of stainless steel material"; however, the original disclosure of the instant application fails to provide support to this statement. Further, the original disclosure is silent as to the material of the disc spring.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-12 and 16-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent 5299344, Oetiker in view of US patent 2659954, Woolsey.

In regards to claim 1, Oetiker disclose a heavy duty clamp for a hose, the clamp including a loop for disposing around the hose and having first and second axially spaced apart looped ends (23, 33), the clamp comprising:

- a force generator (40), for drawing together the first and second looped ends, and connected to the first and second looped ends, the force generator including at least one spring (44) mounted thereon and made out of steel material so as to allow substantially high and constant clamping force from the force generator under operational condition of the clamp; and
- a spacer member (41) mounted on the force generator between the spring and the first looped end for axially transferring the clamping force from the force generator to the first and second looped ends, the clamping force axially drawing together the first and second looped ends so as to clamp the hose.

Oetiker does not disclose a disc spring. Woolsey teaches a disc spring (34) "to provide spring loading of substantially zero deflection rate" (col. 4, lines 68-69). As Woolsey relates to band clamps, it would have been obvious to one having ordinary skill

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in the art at the time the invention was made to provide a disc spring to provide spring loading of substantially zero deflection rate, as taught by Woolsey.

Oetiker does not disclose a disc spring made out of corrosion resistant material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to fabricate the disc spring out of corrosion resistant material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

In regards to claim 2, Oetiker discloses the first looped end includes a first outer face and a first inner face, and the second looped end includes a second outer face and a second inner face, the first and second outer faces being angled inwardly towards each other and the first and second inner faces being curved and disposed inwardly towards each other.

In regards to claim 3, Oetiker discloses the first looped end including first and second holes located in the respective first outer and inner faces and the second looped end includes third and fourth holes located in the respective second outer and inner faces, the holes being axially aligned with each other.

In regards to claim 4, Oetiker discloses the force generator including a bolt having a first bolt end and a second bolt end, the bolt passing through the first, second, third and fourth holes.

In regards to claim 5, Oetiker discloses the bolt including a threaded portion and a non-threaded portion, the non-threaded portion extending through and away from the first looped end.

In regards to claim 6, Oetiker in view of Woolsey disclose the disc spring and the spacer member being slidably mounted on the non-threaded portion, the disc spring being located near the first bolt end.

In regards to claim 7, Oetiker in view of Woolsey disclose the force generator further including a first capture nut mounted in the first looped end and a second capture nut mounted in the second looped end.

In regards to claim 8, Oetiker in view of Woolsey disclose the first capture nut including a non-threaded axial bore.

In regards to claim 9, Oetiker in view of Woolsey disclose the second capture nut including a threaded axial bore.

In regards to claim 10, Oetiker in view of Woolsey disclose the first and second capture nuts each including a curved end and a stem portion.

In regards to claim 11, Oetiker in view of Woolsey disclose the spacer member including a cylindrical collar with an axial bore sized to accommodate the bolt therein, the cylindrical collar having a force receiver end and a force transfer end.

In regards to claim 12, Oetiker in view of Woolsey disclose the stem portion of the first capture nut being disposed towards the first hole of the first looped end and abuts the force transfer end.

In regards to claim 16, Oetiker discloses the second bolt end including a stop.

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In regards to claim 17, Oetiker discloses the stop being a lock nut, a Stover nut or a nylon insert nut.

In regards to claim 18, Oetiker discloses the Stover nut or the nylon insert nut being integral with the stem portion of the second capture nut.

In regards to claim 19, Oetiker discloses the first hole of the first looped end being larger than the second hole of the first looped end.

In regards to claim 20, Oetiker discloses the clamp loop, when viewed in cross section, including a planar portion and two ends that are angled away from the surface of the hose.

In regards to claim 21, Woolsey discloses a plurality of paired disc springs.

In regards to claim 22, Oetiker discloses a plate being hingeably connected to the first looped end.

In regards to claim 23, Oetiker discloses the disc spring being made out of stainless steel material.

In regards to claim 24, Oetiker discloses the plate including a guide portion for guiding the moveable first and second looped ends when moving towards and away from each other during clamping.



***Response to Arguments***

Applicant's arguments filed 8/5/2005 have been fully considered but they are not persuasive.

The Applicant argues page 2, lines 28-30, implies the disc spring is made out of stainless steel material. The Examiner disagrees. The original disclose is silent to the material of the disc spring.

The Applicant argues Oetiker does not mention or suggest any consideration or need of a generally constant clamping force. The Examiner disagrees, because a clamp inherently has a generally constant clamping force by its design. Therefore, Oetiker meets the claim limitation.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, As Woolsey relates to band clamps, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a disc spring to provide spring loading of substantially zero deflection rate, as taught by Woolsey.

In response to applicant's argument that Oetiker is not obvious in view of Woolsey, the test for obviousness is not whether the features of a secondary reference

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may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references.

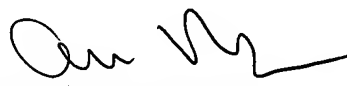
Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron M. Dunwoody whose telephone number is 571-272-7080. The examiner can normally be reached on 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 571-272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Aaron M Dunwoody  
Primary Examiner  
Art Unit 3679

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